

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK

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NASSER TOTARI, ET AL.

Plaintiffs,

Civ. Action No. 5:05-CV-0014  
(NAM/GHL)

vs.

HOME DEPOT, INC., ET AL.

Defendants.

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APPEARANCES:

OF COUNSEL:

FOR PLAINTIFFS:

Office of Michael P. Marmor  
7000 East Genesee Street  
Building B, Lyndon Office Park  
Fayetteville, NY 13066

MICHAEL P. MARMOR, ESQ.

FOR DEFENDANTS:

Hodgson, Russ Law Firm  
One M&T Plaza  
Suite 2000  
Buffalo, NY 14203

JILL L. YONKERS, ESQ.  
KYLE C. REEB, ESQ.

NORMAN A. MORDUE, U.S. DISTRICT JUDGE

JUDGMENT DISMISSING ACTION  
BASED UPON SETTLEMENT

Pursuant to the notice of settlement filed on February 7, 2006, by attorney  
Reeb, that the parties have entered into an agreement in settlement of all claims in

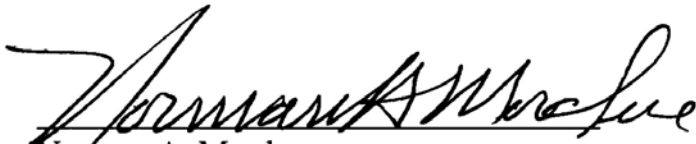
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this action, and that they reasonably anticipate finalizing their agreement shortly, following which this action will be discontinued, with prejudice, by stipulation pursuant to Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure. Based upon this development, I find that it is not necessary for this action to remain on the court's active docket.

It is therefore hereby

ORDERED, as follows:

- 1) This action is dismissed, with prejudice, except as set forth below.
- 2) The court will retain complete jurisdiction to vacate this order and to reopen the action within (60) sixty days from the date of this order upon cause shown that the settlement has not been completed and further litigation is necessary.
- 3) The Clerk shall forthwith serve copies of this judgment upon the parties and/or their attorneys appearing in this action by first class mail.

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Dated: February 14, 2006  
Syracuse, New York

  
Norman A. Mordue  
U.S. District Judge